

STATE OF MICHIGAN
COURT OF APPEALS

ADDINA ALI VANDER WOUDE-
LEERENTVELD,

UNPUBLISHED
December 18, 2003

Plaintiff/Counter-Defendant-
Appellee,

v

RUDOLF ALBERTUS LEERENTVELD,

No. 241502
Kalamazoo Circuit Court
LC No. 98-003254-DM

Defendant/Counter-Plaintiff-
Appellant.

Before: Smolenski, P.J., and Sawyer and Borrello, JJ.

PER CURIAM.

Following a bench trial in this divorce matter, the trial court rendered a property settlement award from which defendant appeals. A substantial portion of the items distributed in the property division did not contain any economic value, due, in part, to defendant's decision to not participate in the divorce proceedings. Because we are not able to accurately review the property division, we remand this matter to the trial court for further proceedings consistent with this opinion.

Plaintiff and defendant were married in the Netherlands, their native country, on December 9, 1981. At the time of the marriage, plaintiff was twenty-one years old, and defendant was twenty-five years old. Defendant's employment required him to move from his native country to Puerto Rico and the United States. During his tenure with Johnson Corporation, defendant received a promotion that required him to reside in Michigan. The parties maintained a residence in the Netherlands as well as their home in Three Rivers, Michigan.

Plaintiff testified that during the marriage she took care of all of the moving duties, worked some part-time jobs, and home-schooled the children. When the couple moved to Three Rivers, defendant's income was sufficient to cover the expenses associated with their home, so plaintiff looked after the household and raised the children. Defendant testified he was only in the United States twenty-five percent of the time. During defendant's numerous trips abroad, he engaged in several extramarital affairs with women in Argentina, Australia, China, and according to defendant, "possibly in Italy." Plaintiff discovered that defendant was having an affair with a woman in China, and when pressed on the issue, defendant offered to fly plaintiff to

China to prove that the affair had ended. Once in China, defendant had plaintiff stay at one hotel while his mistress was in another hotel so that defendant could “choose which one he loved the most.” Plaintiff thereafter returned to the United States and informed defendant that she wanted a divorce. When plaintiff told defendant that he would have to inform the children, he began choking the plaintiff. One of the children, who witnessed the attack, telephoned 911. Defendant was convicted of domestic assault and sentenced to twenty-four months’ probation.

To remain in the United States, plaintiff had to return to school and obtain a student visa. Plaintiff testified that had defendant applied for a green card, she and the children could remain in the United States, and her opportunities for employment would be greatly increased. Defendant testified that the reason he did not apply for a green card was because he planned to marry his girlfriend from China, and because she was not a citizen, it would be easier to get her to the United States if he waited until after the divorce to apply for the green card.

Defendant contends that the trial court’s property division was patently inequitable and punitive because the trial court allegedly awarded plaintiff ninety-two percent of the marital estate and defendant only eight percent of the estate, and the trial court failed to provide a clear explanation and rationale for its significant departure from congruence. We agree with defendant only to the extent that the lower court record is devoid of a clear explanation and rationale for the court’s decision in reaching a property division. However, part of the reason why the trial court was unable to do so is attributable to the defendant’s failure to appear at trial and his indifference expressed throughout these proceedings.

In determining whether the property division was fair and equitable, a court is to consider the following factors: (1) the duration of the marriage; (2) the contributions of the parties to the marital estate; (3) the ages of the parties; (4) the necessities and circumstances of the parties; (5) the life status of the parties; (6) the health of the parties; (7) the earning abilities of the parties; (8) the past relations and conduct of the parties; and (9) general principles of equity. While a division of property in a divorce case does not need to be equal, it must be equitable or “roughly congruent.” *Knowles v Knowles*, 185 Mich App 497, 501; 462 NW2d 777 (1990). “Any significant departure from that goal should be supported by a clear exposition of the trial court’s rationale.” *Id.*

Thus, we request that the trial court (1) assign value to the property distributed, and (2) clearly state in conformance with established principles the rationale for the property division. Additionally, should the trial court desire to assign fault to the property division, it must state its reasoning and the degree to which fault entered into the property division.

Remanded for further proceedings consistent with this opinion. We retain jurisdiction.

/s/ Michael R. Smolenski
/s/ David H. Sawyer
/s/ Stephen L. Borrello